

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD OF PUERTO
RICO

As representatives of

THE COMMONWEALTH OF PUERTO
RICO, ET AL.

**PROMESA
TITLE III**

NO. 17 BK 3283-LTS

(JOINTLY ADMINISTERED)

MOTION FOR COURT TO PERMIT LATE FILING UNDER RULE 9006(B) (1)

TO THIS HONORABLE COURT:

COMES NOW, Helvia Cruz Ybarra (“Creditor”), through the undersigned attorney and respectfully states and prays as follows:

1. On December 19, 2019, notice of *Nineteenth Omnibus Objection (Non Substantive) of Puerto Rico Sales Tax Financing Corporation to Duplicate and Deficient Claims* was notified. [Dkt. #4506].

2. The deadline for filing and serving a response with the clerk’s office of the United States District for the District of Puerto Rico was 4:00 pm (Atlantic Standard Time) on February 1, 2019.

3. The Creditor’s claim number 49548 was included in the claims objected.

4. The Creditor through the undersigned attorney filed the Notice of Appearance at 4:10 pm (AST) [Dkt. #5040] and the response to the Puerto Rico Sales Tax Financing Corporation’s Nineteenth Omnibus Objection to her claim at **4:28 pm** (AST) [Dkt. #5042].

BANKRUPTCY RULE 9006(b)(1)

5. Rule 9006 of the Federal Rules of Bankruptcy Procedure is a general rule governing the computation, enlargement, and reduction of periods of time prescribed in other bankruptcy rules. Bankruptcy Rule 9006(b)(1) empowers a bankruptcy court to permit a late filing if the movant's failure to comply with an earlier deadline "was the result of excusable neglect."¹ *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 382, 113 S. Ct. 1489, 1491, 123 L. Ed. 2d 74, 61 USLW 4263, 28 Collier Bankr. Cas. 2d 267, 25 Fed. R. Serv. 3d 401, 24 Bankr. Ct. Dec. 63, Bankr. L. Rep. P 75157A, 1993 WL 79640 (1993).

6. Rule authorizing bankruptcy court to accept late filings where failure to act is result of "excusable neglect," contemplates that courts are permitted, where appropriate, to accept late filings caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond party's control. Fed.Rules Bankr.Proc.Rule 9006(b)(1), 11 U.S.C.A., *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, supra.

7. On February 1st, 2019, on or about 3:20 PM (AST), the undersigned attorney initiated access to the CM/ECF System for filing of the notice of appearance and response to the objection of the claim for two clients.

8. The undersigned attorney experienced delays and unexplained errors while creating the first client in the CM/ECF System, thus delaying individual client and attorney

¹ Bankruptcy Rule 9006(b) provides:

"(b) Enlargement.

"(1) *In General*. Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

"(2) *Enlargement Not Permitted*. The court may not enlarge the time for taking action under Rules 1007(d), 1017(b)(3), 2003(a) and (d), 7052, 9023, and 9024.

"(3) *Enlargement Limited*. The court may enlarge the time for taking action under Rules 1006(b)(2), 1017(e), 3002(c), 4003(b), 4004(a), 4007(c), 8002, and 9033, only to the extent and under the conditions stated in those rules."

association.² This resulted in a delay of over 30 minutes, which in turn delayed filing for this Creditor.

9. Additional delays in filing the documents was also associated with the internet service, as loading the multiple attachments also required several minutes, even though undersigned attorney's office has the maximum available speed provided by the carrier in the area.

10. The above described situations resulted in the Notice of Appearance and the response to the Puerto Rico Sales Tax Financing Corporation's Nineteenth Omnibus Objection to Ms. Helvia Cruz-Ybarra's claim Number 49548 to be filed after the 4:00 PM (AST) deadline.

11. The failure to file within the 4:00PM (AST) deadline was a result of "excusable neglect", a combination of unexplainable mistakes and circumstances beyond party's control for which the Creditor, respectfully requests for this Honorable Court to permit the late filings, and as such allow for the Creditor's response to Puerto Rico Sales Tax Financing Corporation's Nineteenth Omnibus Objection filed at Docket Number 5042 to be accepted as filed within the deadline.

WHEREFORE, Ms. Helvia Cruz-Ybarra, respectfully requests this Honorable Court to find late filing of the Response to the Puerto Rico Sales Tax Financing Corporation's Nineteenth Omnibus Objection filed a Docket Number 5042, is allowed under Rule 9006(b)(1) as due to excusable neglect.

² The documents pertaining to the other client were filed first in this jointly administered case. Even though the intent was to create the party as a creditor, and that was the classification consciously selected, it wasn't until the third attempt, and more than thirty minutes later, that the undersigned attorney was finally able to create the client with the proper classification and proceed with the other pertinent filings required. This client ended up with three classifications.

I HEREBY CERTIFY that on this same date, I electronically filed this notice with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to all parties in interest, as per the master address list.

In Cidra, Puerto Rico, this February 11th, 2019.

s/ Rhonda M. Castillo Gammill
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